

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

**MONTE RUSSELL, on behalf of himself and  
others similarly situated,**

**Plaintiff,**

**Case No.: C 07 3993 CW**

**v.**

**WELLS FARGO AND COMPANY,**

**Defendant.**

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**NOTICE OF COLLECTIVE ACTION CLAIMS UNDER THE  
FAIR LABOR STANDARDS ACT**

**THIS IS NOT A LAWSUIT AGAINST YOU.**

**PLEASE READ THIS NOTICE CAREFULLY.  
YOUR LEGAL RIGHTS MAY BE AFFECTED.**

TO: Current and former Technology Information Group employees of Wells Fargo & Company and Wells Fargo Bank, N.A., who held the position of PC/LAN Engineer 3 or PC/LAN Engineer 4 and who were paid a salary and treated as exempt from the laws requiring overtime for some period of time after November 1, 2004.

**I. INTRODUCTION**

The purpose of this Notice is to inform you of the existence of a collective action lawsuit in which you are potentially “similarly situated” to the Named Plaintiff, to advise you of how your rights may be affected by this lawsuit, and to instruct you on the procedure for participating in this lawsuit if you so desire.

As described more fully below, if you are eligible and wish to participate in the collective action, you must complete and submit the Consent to Join form attached to this Notice.

## **II. DESCRIPTION OF THE LAWSUIT**

### **A. THE ALLEGATIONS**

Plaintiff Monte Russell (Named Plaintiff) brought this lawsuit in the United States District Court for the Northern District of California, Oakland Division, against Wells Fargo on August 2, 2007. The Named Plaintiff contends that Wells Fargo incorrectly classified PC/LAN Engineers 3 and PC/LAN Engineers 4 as “exempt” from federal overtime laws. The Named Plaintiff, a former employee, brings his claims under the Fair Labor Standards Act (FLSA). The Named Plaintiff seeks overtime compensation at a rate of one and one-half (1.5) the regular rate of pay for all hours worked over 40, liquidated or “doubled” damages, attorneys’ fees and costs under the FLSA.

Wells Fargo generally denies all of the Named Plaintiff’s claims and does not admit any liability. Wells Fargo generally claims that PC/LAN Engineers 3 and 4 were exempt from overtime. Wells Fargo also contends that, to the extent there was any violation of the FLSA, it was an innocent error, that all actions were taken in good faith, and that reasonable minds could differ as to the proper classification of PC/LAN Engineers 3 and 4 as either exempt or non-exempt from the laws requiring payment of overtime such that there is no basis to award liquidated damages.

### **B. THE CURRENT STAGE OF THE LAWSUIT**

This lawsuit is currently in the early pretrial stage. On \_\_\_\_\_, the Court authorized this Notice to be sent to you.

Before engaging in further litigation, the Named Plaintiff and Wells Fargo have agreed to privately mediate the claims in this lawsuit before a neutral mediator in an attempt to settle the dispute. This means that the parties will attempt to resolve the lawsuit out of court through alternative dispute resolution (ADR).

The Named Plaintiff and Wells Fargo believe that, in this case, mediation is the best way to resolve the overtime/FLSA claims. Litigation would increase the costs for both sides and lengthen the proceedings. Mediation allows the parties to privately address issues.

## **III. FAIR LABOR STANDARDS ACT CLAIM**

### **A. COMPOSITION OF THE FLSA COLLECTIVE ACTION**

The Named Plaintiff seeks to sue on behalf of himself and all other similarly situated persons who are/were employed by Wells Fargo as a PC/LAN Engineer 3 or PC/LAN Engineer 4 and who were paid a salary and treated as exempt from the laws requiring overtime at some time after November 1, 2004.

If you never worked over 40 hours in any one week while you were employed by Wells Fargo as PC/LAN Engineer 3 and/or a PC/LAN Engineer 4, you are not eligible to join this lawsuit. However, if you have a good faith belief that you worked over 40 hours in any one week or are

unsure whether you worked over 40 hours in any one week while you were employed by Wells Fargo as PC/LAN Engineer 3 and/or a PC/LAN Engineer 4, you are eligible to join this lawsuit.

**B. YOUR RIGHT TO PARTICIPATE IN THE FLSA COLLECTIVE ACTION**

If you fit the definition in Paragraph A above, you may join in the FLSA claim raised in this lawsuit by completing and mailing a signed copy of the Consent to Join form (attached to this Notice) to class counsel in the enclosed envelope. **Your Consent to Join form must be postmarked by no later than [date to be inserted by Rust Consulting: 45 days from the mailing date of this Notice or, in the case of a prior bad address, 30 days from the date Notice was re-mailed], 2008.** Having a Consent to Join form filed does not guarantee that you will be able to participate in the mediation or trial of this lawsuit as this may depend upon a final ruling from the District Court that you and the Named Plaintiffs are “similarly situated” under federal law. Failing to have a Consent to Join form postmarked on or before the deadline means that you cannot participate in any settlement or judgment for damages under the FLSA as part of this lawsuit.

**C. EFFECT OF JOINING THE FLSA COLLECTIVE ACTION**

If you file a Consent to Join form and the Court permits your claims to proceed to trial as part of the collective action, you will be bound by any judgment regarding the claim in the lawsuit, whether favorable or unfavorable to Plaintiffs and the class. By returning the Consent to Join form, you are agreeing to designate the Named Plaintiff as your agent to make decisions on your behalf concerning this lawsuit, including decisions as to the method and manner of conducting this lawsuit. While this lawsuit is pending, you may be required to provide information, appear for a deposition in your hometown, or otherwise participate in the action.

If you elect to opt into this lawsuit, you will not be required to pay attorneys’ fees or expenses. If Plaintiff prevails at trial, the FLSA, the statute under which this lawsuit is brought, provides for the recovery of attorneys’ fees, and attorneys’ fees will be paid either by Wells Fargo or as a percentage of any monetary judgment in favor of Plaintiff as ordered by the Court. In the event there is a settlement, Plaintiff’s counsel will receive attorneys’ fees paid either by Wells Fargo or as a percentage of the settlement obtained. Any settlement will be approved by the Court.

**D. NO LEGAL EFFECT UNDER THE FLSA IN NOT JOINING THE FLSA LAWSUIT**

If you choose not to join in this FLSA lawsuit, you will not be affected by any judgment on the FLSA claim, whether it is favorable or unfavorable to Plaintiff and the class. If you choose not to file a Consent to Join this FLSA lawsuit, you are free to file your own lawsuit.

**IV. NO RETALIATION PERMITTED**

**FEDERAL LAW PROHIBITS WELLS FARGO FROM TAKING ANY ACTION AGAINST YOU BECAUSE YOU ELECT TO JOIN THIS ACTION BY FILLING OUT AND**

RETURNING THE CONSENT TO JOIN FORM, OR OTHERWISE EXERCISING YOUR RIGHTS UNDER THE FLSA.

**V. PLAINTIFF'S AND CLASS COUNSEL**

T. Joseph Snodgrass  
Shawn M. Raiter  
Kelly A. Swanson  
Larson King, LLP  
2800 Wells Fargo Place  
30 East Seventh Street  
St. Paul, MN 55101  
1-877-373-5501  
(651) 312-6500  
kswanson@larsonking.com

William M. Audet  
Adel Nadji  
Audet & Partners, LLP  
221 Main Street, Suite 1460  
San Francisco, California 94105

**VI. DEFENDANT WELLS FARGO'S LEGAL REPRESENTATION**

Glenn L. Briggs  
Theresa A. Kading  
Hodel Briggs Winter, LLP  
8105 Irvine Center Drive, Suite 1400  
Irvine, CA 92618  
Telephone: (949) 450-8040

**VII. FURTHER INFORMATION**

To obtain further information about this Notice, the deadline for filing a Consent to Join form, or other information about this lawsuit, please contact Plaintiff's attorneys at the numbers and/or addresses stated above.

PLEASE DO NOT CONTACT THE COURT OR THE CLERK'S OFFICE FOR INFORMATION.

THIS NOTICE AND ITS CONTENTS HAVE BEEN AUTHORIZED BY THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION. ALTHOUGH THE COURT HAS AUTHORIZED THE SENDING OF THIS NOTICE, THIS DOES NOT MEAN THAT THE COURT WILL FIND IN FAVOR OF ANY PLAINTIFF OR GRANT ANY RELIEF.

Dated: April 7, 2008



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The Honorable Claudia Wilken  
United States District Judge

## **FILING INSTRUCTIONS**

### **Consent to Join**

If you choose to join in the FLSA claim, your Consent to Join form must be completed, signed and returned in the Business Reply Envelope included with this packet. Your Consent to Join form must be postmarked by no later than [date to be inserted by Rust Consulting: 45 days from the mailing date of this Notice or, in the case of a prior bad address, 30 days from the date Notice was re-mailed], 2008.

### **1. CHANGE OF ADDRESS**

If you move or change your address, please advise class counsel:

T. Joseph Snodgrass  
Shawn M. Raiter  
Attn: Kelly A. Swanson  
Larson King, LLP  
2800 Wells Fargo Place  
30 East Seventh Street  
St. Paul, MN 55101  
1-877-373-5501  
(651) 312-6500  
[kswanson@larsonking.com](mailto:kswanson@larsonking.com)

### **2. FURTHER INFORMATION**

To obtain further information about this lawsuit including your right to “opt in,” please contact class counsel:

T. Joseph Snodgrass  
Shawn M. Raiter  
Attn: Kelly Swanson  
Larson King, LLP  
2800 Wells Fargo Place  
30 East Seventh Street  
St. Paul, MN 55101  
1-877-373-5501  
(651) 312-6500  
[kswanson@larsonking.com](mailto:kswanson@larsonking.com)

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**Defendant.**

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**IF YOU WISH TO JOIN THE FLSA COLLECTIVE ACTION, THIS FORM MUST BE  
COMPLETED, SIGNED AND RETURNED WITH A POSTMARK ON OR BEFORE  
[DATE TO BE INSERTED BY RUST CONSULTING: 45 DAYS FROM THE MAILING DATE  
OF THIS NOTICE OR, IN THE CASE OF A PRIOR BAD ADDRESS, 30 DAYS FROM THE  
DATE NOTICE WAS RE-MAILED]**

*Please type or print in ink the following:*

<b>Name:</b>		
<b>Street and Apartment Number, if any:</b>		
<b>City:</b>	<b>State:</b>	<b>Zip Code:</b>
<b>Home Telephone:</b>	<b>Work Telephone:</b>	<b>Cell Telephone</b>
<b>E-Mail:</b>		
<b>Name and Phone Number of Alternative Contact Person:</b>		
<b>Social Security Number</b>		

1. I understand that this lawsuit includes a claim under the federal Fair Labor Standards Act. I have read and I understand the Notice of Collective Action that accompanied my copy of this Consent. I hereby consent to become a member of this collective action and consent to be bound by any adjudication by the Court regarding the Fair Labor Standards Act in this lawsuit.
2. I hereby authorize class counsel to file this Consent on my behalf with the Clerk of the United States District Court for the Northern District of California, Oakland Division.
3. By my signature below, I represent to the Court that I have been employed by Wells Fargo Bank, N.A., as a PC/LAN Engineer 3 and/or a PC/LAN Engineer 4 at some time after November 1, 2004. I further represent that I have a good faith belief that I worked over 40 hours in any one week, or that I am unsure whether I worked over 40 hours in any one week, while I was employed by Wells Fargo as PC/LAN Engineer 3 and/or a PC/LAN Engineer 4. My signature below further indicates that I want to become a member of this collective action:

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Signature:

Date:

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COMPLETE AND RETURN THIS FORM IN THE BUSINESS REPLY ENVELOPE INCLUDED WITH THIS PACKET TO:

T. JOSEPH SNODGRASS  
LARSON · KING, LLP  
2800 WELLS FARGO PLACE  
30 E. 7<sup>TH</sup> STREET  
ST. PAUL, MINNESOTA 55101-4922  
(651) 312-6500  
[kswanson@larsonking.com](mailto:kswanson@larsonking.com)